

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAJUAN FLEMING,

No. C 17-07358 WHA

Plaintiff,

v.

ORDER TO SHOW CAUSE

SCOTT KERNAN and RON RACKLEY,

Defendants.

This Court may entertain a petition for a writ of habeas corpus from a prisoner who is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Upon receipt of such petition, this Court must “forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. Summary dismissal of a petition is appropriate only where the allegations in the petition are “vague,” “conclusory” or “palpably incredible.” *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).


In the current case, petitioner is incarcerated at Sacramento State Prison in Represa, California. He therefore is in custody for purposes of habeas corpus relief. Furthermore, petitioner alleges multiple violations of his constitutional rights, including that his trial counsel rendered ineffective assistance of counsel. Thus, petitioner has sustained his burden with respect to requiring the state to answer his petition.

Respondents **SHALL SHOW CAUSE** within **SIXTY DAYS** of this order why the petition for writ of habeas corpus should not be granted. Respondents shall file with the answer and serve on petitioner a copy of all portions of the record that are relevant to a determination of the issues

presented by the petition. Petitioner shall serve and file any traverse to such answer not later than **THIRTY DAYS** from submission of the answer, whereupon the Court shall deem the matter submitted on the pleadings. The clerk **SHALL SERVE** this order on petitioner and respondents.

IT IS SO ORDERED.

Dated: January 19, 2018.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE